

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY (Chapter I of the Patent Cooperation Treaty)

(PCT Rule 44bis)

Applicant's or agent's file reference P70753PC00	FOR FURTHER ACTION	See item 4 below
International application No. PCT/EP2004/008706	International filing date (<i>day/month/year</i>) 03 August 2004 (03.08.2004)	Priority date (<i>day/month/year</i>) 05 August 2003 (05.08.2003)
International Patent Classification (8th edition unless older edition indicated) See relevant information in Form PCT/ISA/237		
Applicant ACCAPELLA VISION LIMITED		

1.	This international preliminary report on patentability (Chapter I) is issued by the International Bureau on behalf of the International Searching Authority under Rule 44 <i>bis</i> .1(a).																								
2.	<p>This REPORT consists of a total of 7 sheets, including this cover sheet.</p> <p>In the attached sheets, any reference to the written opinion of the International Searching Authority should be read as a reference to the international preliminary report on patentability (Chapter I) instead.</p>																								
3.	<p>This report contains indications relating to the following items:</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 10%; text-align: center;"><input checked="" type="checkbox"/></td> <td style="width: 30%;">Box No. I</td> <td style="width: 80%;">Basis of the report</td> </tr> <tr> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td>Box No. II</td> <td>Priority</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Box No. III</td> <td>Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Box No. IV</td> <td>Lack of unity of invention</td> </tr> <tr> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td>Box No. V</td> <td>Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Box No. VI</td> <td>Certain documents cited</td> </tr> <tr> <td style="text-align: center;"><input type="checkbox"/></td> <td>Box No. VII</td> <td>Certain defects in the international application</td> </tr> <tr> <td style="text-align: center;"><input checked="" type="checkbox"/></td> <td>Box No. VIII</td> <td>Certain observations on the international application</td> </tr> </table>	<input checked="" type="checkbox"/>	Box No. I	Basis of the report	<input checked="" type="checkbox"/>	Box No. II	Priority	<input type="checkbox"/>	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability	<input type="checkbox"/>	Box No. IV	Lack of unity of invention	<input checked="" type="checkbox"/>	Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement	<input type="checkbox"/>	Box No. VI	Certain documents cited	<input type="checkbox"/>	Box No. VII	Certain defects in the international application	<input checked="" type="checkbox"/>	Box No. VIII	Certain observations on the international application
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4.	The International Bureau will communicate this report to designated Offices in accordance with Rules 44 <i>bis</i> .3(c) and 93 <i>bis</i> .1 but not, except where the applicant makes an express request under Article 23(2), before the expiration of 30 months from the priority date (Rule 44 <i>bis</i> .2).																								

<p style="text-align: center;">The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland</p> <p>Facsimile No. +41 22 740 14 35</p>	<p>Date of issuance of this report 06 February 2006 (06.02.2006)</p> <p>Authorized officer <div style="text-align: center; font-weight: bold;">Ellen Moyse</div></p> <p>Telephone No. +41 22 338 89 75</p>
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PATENT COOPERATION TREATY

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From the
INTERNATIONAL SEARCHING AUTHORITY

PCT

REC'D 17 NOV 2004

WIPO

PCT

To:

see form PCT/ISA/220

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY (PCT Rule 43bis.1)

Date of mailing
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference
see form PCT/ISA/220

FOR FURTHER ACTION
See paragraph 2 below

International application No.
PCT/EP2004/008706

International filing date (day/month/year)
03.08.2004

Priority date (day/month/year)
05.08.2003

International Patent Classification (IPC) or both national classification and IPC
H04N1/62

Applicant
ACCAPELLA VISION LIMITED

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☒ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☒ Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA:



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**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/EP2004/008706

Box No. I Basis of the opinion

1. With regard to the **language**, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
 - ☐ This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
 - ☐ a sequence listing
 - ☐ table(s) related to the sequence listing
 - b. format of material:
 - ☐ in written format
 - ☐ in computer readable form
 - c. time of filing/furnishing:
 - ☐ contained in the international application as filed.
 - ☐ filed together with the international application in computer readable form.
 - ☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

**WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY**

International application No.
PCT/EP2004/008706

Box No. II Priority

1. ☒ The following document has not been furnished:

- ☒ copy of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(a)).
☐ translation of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(b)).

Consequently it has not been possible to consider the validity of the priority claim. This opinion has nevertheless been established on the assumption that the relevant date is the claimed priority date.

2. ☐ This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43bis.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.

3. Additional observations, if necessary:

Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	
	No: Claims	1-9
Inventive step (IS)	Yes: Claims	
	No: Claims	1-17
Industrial applicability (IA)	Yes: Claims	1-17
	No: Claims	

2. Citations and explanations

see separate sheet

Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

see separate sheet

Re Item V

**Reasoned statement with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement**

1. Reference is made to the following documents:

- D1: US 2002/136450 A1 (YAN JIE ET AL) 26 September 2002 (2002-09-26)
- D2: US-B-6 407 7771 (DELUCA MICHAEL JOSEPH) 18 June 2002 (2002-06-18)
- D3: US 2002/131770 A1 (MEIER ROLAND ET AL) 19 September 2002 (2002-09-19)

2. Claim 1 not novel

The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claim 1 is not new in the sense of Article 33(2) PCT.

The document D1 discloses (the references in parentheses applying to this document):

A method of filtering a red-eye phenomenon from a digital image (par. 5), the method comprising
- using both anthropometric data (par. 33-34) and meta-data (par. 46) associated with the image to identify regions of the image potentially susceptible to red-eye artifacts

The subject-matter of claim 1 is therefore not new (Article 33(1) and (2) PCT)

3. Claim 9 not novel

The above argumentation also applies to independent claim 9, which differs from claim 1 only in that it is formulated in terms of an apparatus claim.

The subject-matter of claim 9 is therefore not new (Article 33(1) and (2) PCT)

4. Claim 2-8 and 10-17 not novel or inventive

Dependent claims 2-8 and 10-17 do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of novelty or inventive step, the reasons being as follows:

4.1 The features of dependent claims 2 and 10 have already been employed for the same purpose in D2, which is situated in the same technical context, see column 3:46-53, column 4:57-67, column 5:40-51. It would therefore be obvious to the person skilled in the art, to apply these features with corresponding effect, thereby arriving at the subject-matter of claim 2 and 10.

4.2 Furthermore, the features of dependent claims 3, 11 (further anthropometric test) and 4, 12 (colour representative of red-eye artifacts) have already been employed for the same purpose in D2, see Figure 10, column 5:52-6:5 and column 2:20-60. It would therefore be obvious to the person skilled in the art, to apply these features with corresponding effect, thereby arriving at the subject-matter of claim 3, 4, 10, 11.

4.3 Furthermore, the features of claim 5 and 13 (colours representative of red-eye based on spectral response, ...) have already been employed for the same purpose in D3, which is situated in the same technical context. D3 discloses a method of transforming data into a device independent data space (par. 74, 80), which uses spectral information (par. 41-43) and which discloses that this space can be used for red eye removal (par. 87). It would therefore be obvious to the person skilled in the art, to apply these features with corresponding effect, thereby arriving at the subject-matter of claim 5 and 13.

The applicant is informed that claim 5 might become patentable when it is clarified, in order to more closely reflect with regard to what is disclosed in the description on page 16 and 17.

4.4 Furthermore, in dependent claims 6-8 and 14-17 structural detail of the method and apparatus, defined 1 and 9 respectively, are set out, all of which insofar as they are not explicitly disclosed in D1, D2 and D3 relate to routine measures normally to be expected from the skilled person.

The subject-matter of claims 2-8 and 10-17 is therefore not new (Article 33(1) and (2) PCT) or lacks an inventive step (Article 33(3) PCT).

Re Item VIII

Certain observations on the international application

5.1 The application does not meet the requirements of Article 6 PCT, because the method as drafted in claims 1-8 merely contains of an arbitrary choice of method steps, which have no connection between them. The applicant is asked to redraft claims 1-8, accordingly.

5.2 Although claim 1 is drafted in the two-part form some features are incorrectly placed in the characterising portion, as they are disclosed in document D1 in combination with the features placed in the preamble (Rule 6.3(b) PCT).